

Draft Minutes
Delta Protection Commission Meeting
Thursday, July 26, 2001

1. Call to Order.

The meeting was called to order at 6:30 p.m. by Chairman Patrick N. McCarty. Commissioners present were: Bedford, Brean, Cabaldon, Coglianese, Curry, Curtis, Gleason, Glover, Macaulay, McGowan, Nottoli, Sanders, Shaffer, Thomson, van Loben Sels, Wilson, and Ex-Officio Member Helen Thomson. Commissioners absent were: Calone and Ferguson.

2. Public Comment Period for Items not on the Agenda. There were no public comments.

3. Minutes of Last Meeting.

Commissioner Cabaldon requested a correction: He was not absent at the May 24th meeting; he was awaiting reappointment by SACOG. On a motion by Commissioner Sanders and a second by Commissioner Coglianese, the draft minutes were approved unanimously by voice vote, as amended. Commissioners Bedford, Cabaldon, Glover, Macaulay, McGowan, Nottoli and Thomson abstained.

4. Chairman's Report.

Chairman McCarty announced the next DPC meeting is scheduled for September 27, 2001. The Commission is tentatively scheduled to discuss CALFED's ecosystem restoration plan in the Delta and their draft implementation strategy for the Delta as well as review the scoping document for preparation of a Delta Recreation Master Plan. He announced the corrected date for the Ag Subcommittee is August 7th; the notice incorrectly stated August 2. Chairman McCarty attended the CALFED Policy Group meeting on June 14th, and reported that progress is being made on all fronts.

5. Commissioner Comments/Announcements.

Commissioner Coglianese commented that in regard to the CALFED Policy Group meeting of June 14th, one of the items on the agenda was CALFED Science Center Complex, which includes a complex at UC Davis and a field station in the City of Rio Vista. Concurrence was recently received to move forward with the planning of the project from representatives of both the Secretary of the Interior and the Governor's Office.

Commissioner Curtis stated that the Department of Fish and Game (DFG) has proposals for land acquisitions within the Delta coming up at the Wildlife Conservation Board (WCB) meeting scheduled for August 30th.

Commissioner Curtis stated (as copies were passed out) that there are two separate purchases: The Wilcox Ranch acquisition in Solano County and Yolo Bypass acquisition. All lands are part of the Glide Ranch. He said it is difficult for DFG to discuss acquisitions while deals are being negotiated. He said the negotiations have just been completed.

Commissioner Curtis stated the Wilcox Ranch is about 3,300 acres, near Travis Air Field, west of Jepson Prairie Preserve. It is a purchase primarily to protect vernal pools. The deal is still being put together, but the idea is that DFG would buy the land; an open space easement would go to Solano County or the Nature Conservancy and the Ranch would be maintained in grazing for at least five years.

Commission Shafer asked what is the anticipated environmental documentation for the acquisitions; Commissioner Curtis replied that WCB acquisitions are 'categorically exempt' under CEQA; Commissioner Shaffer asked if this was a Section 13 exemption; Commissioner Curtis did not know what section of CEQA.

Commissioner van Loben Sels asked if there is an existing conservation easement on this particular piece of property; Commissioner Curtis was unaware of an existing easement.

Commissioner van Loben Sels asked the source of the funding and the approximate price per acre; Commissioner Curtis said the source of funds is Prop 12, and the overall average for both properties is about \$1500/acre. He offered to get additional information and distribute it prior to the August 30 WCB meeting.

Ms. Aramburu is unsure if the Wilcox project is within the Legal Delta; it adjoins the vernal pool area in the Jepson Prairie Preserve which is partially in the Primary Zone. She will check and report back.

Commissioner Wilson asked if there was any funding for a management plan; Commissioner Curtis said management will either be through the Nature Conservancy or the Solano County Farmlands and Open Space Foundation.

Commissioner Coglianese noted that until recently she was a board member of the Solano County Farmlands and Open Space Foundation which acquired the Jepson Prairie Preserve from the Nature Conservancy. As a condition of acquisition, a management plan was required which does include grazing. The Foundation also does management on some DFG property in the Calhoun Cut area. She said the logical thing would be to extend the same kind of management.

Commissioner Curtis described second acquisition in the Yolo Bypass. DFG owns and manages the 3700 acre Yolo Bypass Wildlife Area (Vic Fazio Yolo Basin Wildlife Area). The property being acquired consists of three ranches: the Causeway, Geiberson, and Tule Ranches.

The Causeway Ranch will virtually double the size of DFG wildlife area. The acquisition of this northern most piece will make it easier to operate the existing wildlife area. There is a piece north of the railroad, approximately 180 acres, that DFG would reserve the right to sell it as it's harder to manage.

The Geiberson Ranch, approximately 160 acres, 30 acres of which are within the Yolo Bypass levee, the other 130 acres are outside the levee. This is a potential site for a Pacific Flyway Center. However, currently access is difficult because it is through private land and PG&E and if access isn't available, DFG may sell the portion outside the levee.

The Tule Ranch, approximately 9,000 acres, would require additional funds for management. The DFG would like to develop wildlife friendly agricultural practices that are compatible with the wildlife area. Some areas are primarily grazing lands. Again, DFG added options to sell land if it doesn't fit into their operations or management plan.

Commissioner van Loben Sels asked if the ranches are within the Yolo Bypass; Commissioner Curtis replied yes, they are largely within the Bypass.

Commissioner van Loben Sels asked if all these properties were studied as part of the proposed North Delta National Wildlife Refuge; Commissioner Curtis replied affirmatively.

Ms. Aramburu stated that the piece to north of the wildlife area was not in the study as part of the proposed refuge.

Commissioner Shaffer stated that the Yolo Basin Foundation received CALFED funds and are currently studying management issues associated with the Yolo Bypass. He asked how does the timing work in terms of this versus completion of the study first; Commissioner Curtis stated he is unsure of the timing; but that the Yolo Basin Foundation is very supportive of this acquisition.

Commissioner Wilson asked how this affects flood control and flood elevations; Commissioner Curtis said that anything purchased within the Yolo Bypass has to meet Reclamation Board standards. Managing the wildlife area is subject to rules of operation and maintenance. The acquisition will be reviewed by WCB on August 30. The north piece can quickly be managed as part of the existing wildlife area and will include agriculture, as well as recreation and educational activities. The southern piece, the Tule Ranch, will probably be operated primarily as wildlife friendly agriculture. He said he would like income generated from agriculture to be part of funding for management of the wildlife area. Currently, DFG requires any revenues from refuges to go to a general department fund.

Commissioner Shaffer asked if DFG has analyzed cost effectiveness of acquisition versus developing tools and incentives for the existing private land owners to develop and manage land in wildlife friendly agriculture and habitat. He asked if there will be a fiscal

impact to Yolo County; Commissioner Curtis responded that at times the State uses conservation easements. However, in this situation the landowner wants to sell and then be a tenant of DFG. Commissioner Curtis said DFG is the only State agency that pays a fee in lieu of taxes for land classified as wildlife area. DFG pays a fee at the same level as the private land owners paid when they sold their land. The counties look at this as a decrease because normally when a property sells, it's assessed at a higher value. Also, there's no opportunity for the in lieu fee to be increased over time. In addition, payment of the fees is subject to funding by the Legislature and those funds are not always available.

Commissioner Shaffer expressed concern that DFG is using a categorical exemption for acquisition of existing habitat or enhancement of existing habitat, which is different from acquisition of currently farmed land that may stay in farming and some that will be converted to habitat.

Commissioner Wilson described a DFG-funded habitat project on Tyler Island that has not been completed, and is creating a nuisance to nearby farmers. He asked if any Reclamation Districts would be affected by the proposed acquisition; Commissioner Curtis did not know if any Reclamation Districts would be affected.

Commissioner van Loben Sels suggested that DFG incorporate into this transaction a mechanism that preserves the tax base for this 12,000 acres; Commissioner Curtis responded that the DFG follows the formula created by the Legislature.

Chairman McCarty acknowledged that the Commission is becoming increasingly familiar with the Tyler Island situation, and that's probably a good one to examine as to what goes wrong and what should be mitigated against or planned for to prevent future problems. He suggested development of a guide book to prevent future similar occurrences.

Commissioner McGowan stated that the Commission needs to start looking at how it can address these kinds of issues as they arise. This feeds into the fundamental question of what the Commission's role is in the CALFED process. What's the coordination? Where's the Commission's role in helping to determine whether or not all of this is really where it ought to be.

Commissioner Shaffer asked if it would be appropriate for Dan Siegel to review the categorical exemption and provide an interpretation for the Commission; Mr. Siegel responded it may be quicker to get an opinion from the DFA attorneys or other department in-house attorneys.

Commissioner McGowan said the fundamental policy question is whether or not this body feels this is an issue for the Commission or not. If the Commission feels it's important, then the Commission needs to get the appropriate information, and the Commission needs to feel comfortable about what's going on.

Commissioner Sanders agreed this is an important issue.

Chairman McCarty said the question is basic; the Commission must go back to what land use is compatible with our vision and plan and if a land use is proposed, is the Commission going to say yes it's compatible and it's acceptable in the Primary Zone or no it's not. DPC has to stop finding out about these acquisitions after they've already been completed so that we can comment on them and perhaps suggest that the funds that are being allocated would be utilized somewhere else for a different type of project within its jurisdiction.

Commissioner Coglianese said the question on CEQA is just what tool do you use to get at the issue. The suggestion earlier was to look at Tyler Island as a case study and analyze what went wrong, then advocate for policies to follow if agencies are going to be acquiring land within DPC's jurisdiction. These policies could then be included as conditions for DPC's agreement. DPC's standard comment should be unless the proponent mitigates for the concerns raised by Tyler Island, including having a management plan within a certain time after or before acquisition, then DPC is not in favor of the acquisition.

Commissioner Cabaldon said when the North Delta National Wildlife Refuge was proposed, at least in Yolo County, it seemed the process was proceeding quickly and DPC and local governments in the area had little time to respond. He said DPC has a lot less time in this case, and the proponent is among the DPC's own member agencies. The whole point of this Commission is to be a forum where precisely these types of issues get raised by DFG and the County and the rest of the interested parties. He said the U.S. Fish and Wildlife Service seems to take a more inclusive approach with the Commission and with the Delta stakeholders then with one of our own stakeholder departments within the Commission. He urged the Chairman or the Executive Director to communicate with the various agencies that make up this Commission that this is a partnership and has the potential to be a very useful forum to avoid those kinds of battles if the Commission gets notice of more than a week or two of an action being taken.

Commissioner Curtis said he agrees. The DFG has expressed interest in this property for a number of years. There has been a Conceptual Area Acquisition Plan that was heard publicly before WCB. The problem is that you can't talk about a deal when it's under negotiation. However, discussions of general areas, general concepts, and potential management systems could be undertaken.

Chairman McCarty said he's never seen a piece of property bought without a list of conditions being imposed before the sale can be consummated. One of those conditions could be approval by a number of different organizations, including the Delta Protection Commission when it falls within the Primary Zone.

Commissioner McGowan said there are a number of local concerns that each jurisdiction has; whether it's a reclamation district, local county or city, those important philosophical and policy positions should be put in place, and no deal should be going through unless it passes the test for all those local considerations.

Commissioner Curtis said DFG is willing to work on a process and make it succeed.

Commission McGowan said Yolo County is preparing an HCP and this purchase limits areas the County can use for its mitigation areas. This is an issue that the County and DFG should be working on together.

Assemblywoman Thomson asked whether purchases such as this would qualify as mitigation and if there is some way to work that out. It is interesting that with this amount of land, and the County looking for that same amount of land, why those can't mesh.

Commissioner Curtis said it is illegal for DFG to use State funds to buy lands to provide mitigation so private property can develop, that's illegal. However, under the HCP concept, the County need not worry about acre for acre mitigation. This land could be considered a portion of the preserve; certainly it can't meet all the mitigation needs. DFG can develop the amount of land that's needed for endangered species so the amount of land necessary to be put in the preserve is reduced. He hoped the County and DFG could pursue these ideas further.

Commissioner Cabaldon said that's exactly what the DFG should be doing. The counties and cities can't go out and buy habitat and then write a conservation plan after lands are acquired. He said plans and acquisitions should be laid out in advance to avoid this situation in the future.

Commissioner Wilson asked if this acquisition was in the Primary Zone, Ms. Aramburu said yes. She said that unless the action is postponed, WCB would be acting before the Commission's next regular meeting in September.

Commissioner Wilson commented that in essence a CALFED participant and a government agency will acquire 14,000 acres with no environmental review and no official review by the DPC; Ms. Aramburu said the acquisition is subject to CEQA, but that the attorneys for WCB have determined it's categorically exempt.

Mr. Siegel said this is not an action item at this meeting. In order to initiate discussion on the proposal, it needs to be agendaized at the next DPC meeting. Chairman McCarty asked Ms. Aramburu to agendaize this question for the next meeting.

Commissioner Coglianese asked if the question could be broader than just the CEQA question. DPC has discussed some terrific policy questions and would like to continue this discussion; perhaps the Chairman would ultimately decide to form a subcommittee or an ad hoc committee. DPC may end up needing to develop a policy that it can then present to all these agencies as the way DPC wants to do business with them, even though they may not be legally required to comply with the suggestions.

Commissioner Notolli asked Counsel and the Executive Director to study any mechanism for DPC participation in the WCB process, and to pursue it if possible.

Chairman McCarty suggested that he and Ms. Aramburu and Mr. Siegel discuss this at another time and determine if there is an avenue to pursue.

Commissioner Curry inquired when there could be another meeting. Ms. Aramburu said she would confirm WCB's meeting date on the 30th of August, and if that's the case the DPC could have a meeting on the fourth Thursday in August.

6. Attorney General's Report.

Dan Seigel, Attorney General's Office, said that the United States Supreme Court recently decided to review the question of whether an interim moratorium on development in which no development of certain lands could take place while, a regional plan for Lake Tahoe was developed. The case will probably be heard in January.

7. Executive Director's Report.

Ms. Aramburu reported on the status of a project to place fill dirt on agricultural land in the Primary Zone. She said the County staff is still waiting for the results of tests of the dirt. All dirt that is to be placed, has been placed. She said the Commissioners received material on the workshop to be held at Regional Board about the agriculture discharges. A preliminary position from staff is no action at this time.

Chairman McCarty asked if there were any questions on the Executive Director's report.

Commissioner Nottoli asked if staff had reviewed the environmental document for the Borrow Site relative to the Flood Control Agency proposed project. Ms. Aramburu commented that they propose to lift off the top soil, excavate for the earth and the fill and then put the top soil back. They are making a concerted effort to protect the integrity of the agricultural value of the soil. Commissioner Notolli commented the excavation could affect the ability to farm the site and wanted to be sure others were aware of the project.

Ms. Aramburu asked for feedback on the agriculture conversion table. She asked the Commissioners to contact the DPC office if they have any comments and/or suggestions about clarifying the categories in that analysis.

8. Consideration and Possible Adoption of Positions on Pending Legislation.

Chairman McCarty said the Commission will review and possibly adopt positions of support on pending State legislation regarding matters associated with the Commission's legislative mandate and adopted Land Use and Resource Management Plan for the

Primary Zone of the Delta. He called on Commissioner Gleason, Co-Chair of the Legislative Subcommittee, to brief the Commission.

Commissioner Gleason presented an overview of the legislative schedule for the year. The Delta Protection Commission has been following 25 bills this year. Of these, only five are eligible to be sent to the Governor for action this year. The remaining are 'two-year' bills and will not be acted upon until after the Legislature reconvenes in January 2002. He said the subcommittee, Commissioners Gleason and Coglianese, have looked at five bills; the measures are summarized in the Commissioner's packets.

Commissioner Gleason noted that AB 7, (Cardoza) Sales and use taxes: farm equipment and machinery; was recently amended into SB 347, Johannessen, and then again into AB 426, Cardoza, and has been sent to the Governor for signature.

On a motion by Commissioner Gleason, and a second by Commissioner Coglianese, a motion to support AB 426, Cardoza, was carried unanimously; State agency representatives abstained.

Commissioner Gleason discussed AB 801 (Salinas), the Choose California Act, which would basically require State institutions to buy California agriculture products before those that are grown outside the State. Ms. Morais noted that this bill is scheduled to be heard in the Senate Appropriations Committee when the Legislature returns from recess on August 20.

Commissioner Coglianese asked Commissioner Shaffer the position of DFA; Commissioner Shaffer was not aware of an official position. Ms. Morais stated that she had contacted the DFA legislative liaison; DFA has no approved position.

On a motion by Commissioner Gleason, and a second by Commissioner Coglianese, a motion to support AB 801 was approved unanimously; State agency representatives abstained.

Commissioner Gleason said AB 1414 (Dickerson), Public Lands, would require DFG to prepare land management plans and DPR to prepare general plans for specified properties. He noted there has been no registered opposition.

Ms. Morais said AB 1414 is scheduled to be heard in Senate Appropriations on August 20. She said the departments within the Resources Agency do not have an approved position on the bill, however, they do have concerns due to unknown, perhaps major costs.

Commissioner Curtis commented DFG has no position, however, originally the Department has communicated concerns to the author. The bill has been amended to address some of the DFG's concerns.

Assemblywoman Thomson said this is the result of a State Auditor report on how the State manages its land acquisition programs.

Commissioner Brean said DPR has no position on this bill, however, the Department has 267 park units, and a great percentage of those do not yet have general plans as required by law. The back load is huge; it takes in excess of 18 months to do a typical general plan at a cost in excess of \$100,000. Assemblywoman Thomson commented that the bill was amended to prevent the State from acquiring any additional land until the provisions of AB 1414 are completed.

On a motion by Commissioner Gleason and a second by Commissioner Coglianese, the Commission voted unanimously to support AB 1414; Commissioners representing State departments abstained.

Commissioner Gleason presented AB 1667 (Dickerson) regarding State agencies' real property. Existing law requires the Department of General Services to maintain a complete and accurate statewide inventory of all real property held by the State. AB 1667 would require agencies to furnish a description of the type of site the property is, including, but not limited to, agricultural, wildlife habitat, historical, ecosystem restoration, and sites where the State retains the right to control the development and/or its use.

Commissioner Cabaldon asked what is required of cities and counties under this legislation. Commissioner Brean said there were a lot of opportunities for local government to purchase land with state funds. Ms. Morais said it is estimated that there would be minor local government costs; less than \$75,000 annually statewide.

On a motion by Commissioner Gleason and a second by Commissioner Coglianese, the motion to support AB 1667 was approved unanimously; Commissioners representing State departments abstained.

Commissioner Gleason presented ACA 8 (Keeley) which would create the California Water and Land Protection Trust Fund in the State Treasury. The measure would authorize the income generated by the trust fund to be used, pursuant to any appropriation by the Legislature, for the acquisition, operation, maintenance, restoration, and enhancement of land for habitat for native fish and wildlife and natural communities, agricultural land, scenic open space, and parks and recreation areas. ACA 8 specifies that preference shall be given to acquisition projects for which matching funds will be provided by a private or public source; that land may only be acquired from a willing seller; and, shall be managed to minimize impacts on neighboring lands.

The subcommittee had requested Mr. Siegel to comment on Commission positions on ballot measures. Mr. Siegel said that the Commission is permitted to take a position on a measure such as this which is pending before the Legislature. If the Legislature enacts this and it goes before the electorate, the Commission is prohibited from campaigning for it. The Commission has the right to present a 'fair presentation of the facts' which means

a truly unbiased presentation and does not appear to be a campaign in any way or an advocacy effort.

Ms. Aramburu said staff will monitor ACA 8 and bring it back in September.

Mr. Siegel said if it does go on the ballot, the Commission can take a position and if asked by an outside organization, DPC can communicate that position to the organization and authorize an employee to go to an organization and state the Commission's position, but not advocate for a position.

Commissioner Gleason made a motion to wait until the ballot measure is final and then bring it back to the subcommittee for a recommendation to the full Commission. Commissioner Coglianese seconded the motion. The motion passed unanimously.

9. Consideration and Possible Agreement to Appoint an Agriculture Committee to Develop Recommendations Regarding Possible Update of the Agriculture Findings, Policies and Recommendations in the Land Use and Resource Management Plan for the Primary Zone of the Delta.

Chairman McCarty said the Commission will consider and possibly agree to appoint members to a new Agricultural Committee, to develop recommendations regarding possible update of the agricultural findings, policies and recommendations in the Commissions Land Use and Management Plan for the Primary Zone.

Ms. Aramburu said staff notified all the Commissioners of this opportunity and as a result, there are five volunteers: Commissioners Curtis, Ferguson, Shaffer, van Loben Sels, and Wilson; and in anticipation of an approval, a meeting date is set for August 7. As always, any Commissioner that wants to participate is welcome and the meetings are open to the public.

Chairman McCarty asked if the Committee would include a public advisory group; Ms. Aramburu said that would be part of the committee's recommendation back to the DPC.

Commissioner Coglianese asked if meetings with the five Delta counties were part of the Commissioners strategic plan. Ms. Aramburu responded no, staff met with each of the five county Supervisors that sit on the Commission and invited key people in the community and staff of the County Agriculture Commissioner, County Farm Bureau, Planning Department and local land trusts.

On a motion by Commissioner Gleason and a second by Commissioner Nottoli, the Commission voted unanimously to appoint members of an agriculture committee.

Update on CALFED Actions and Projects in the Delta Protection Commission.

Chairman McCarty introduced Dennis Majors, from CALFED staff, to update the Commission on the status of projects and programs that he's overseeing in the Delta.

Mr. Majors said the draft Delta Regional Implementation Plan was reviewed by the CALFED Committee. The Plan is a road map on how to proceed with CALFED implementation in the Delta. The Committee will review a revised draft in August. He introduced Tony Frisbee, who will be the single point of contact for CALFED for inquiries in the Legal Delta.

Ms. Aramburu said, on behalf of Commissioner Wilson who served as chair of the CALFED Committee, staff prepared some comments which the Committee accepted and asked that there be an additional fleshing out of the Commission's role and responsibility in implementing the CALFED Plan and some additional work on the issues of agricultural conversion and mitigation.

10. Briefing on the Montezuma Wetland Project, Suisun Marsh, Solano County.

Chairman McCarty introduced Jim Levine of Levine Fricke to brief the Commission on the proposed project which will use dredged material from the Bay Area to restore subsided agricultural land to tidal marsh. The project is located west of the Primary Zone in the Suisun Marsh. The project will also include a dredged material handling facility that may eventually be used to process, store, and transfer material dredged in the Bay Area for reuse in the Delta.

Mr. Levine said he was a civil engineer with a background in civil engineering and chemistry and has worked in both the private and public sector. He gave an overview of the project which is currently going into construction to restore approximately 1,800 acres of tidal wetlands on land that Levine Fricke owns and also to build a sediment re-handling facility where sediment can be taken from navigation dredging projects in San Francisco Bay, pump sediment off barges using reasonably fresh water, and reduce the salinity in those sediments. He anticipates approval by the Central Valley Regional Water Quality Control Board. This would be an economical source of sediment for levee repair and habitat restoration in the Delta. Mr. Levine presented several photos and discussed the process of restoring property that has been overgrazed and how the process of restoring dredged materials is successful. The marsh design plan is based on two years of meetings bimonthly with biologists from all the agencies. It was a consensus built plan that went into the EIR process, was vetted and finalized. He also presented photos and information regarding vernal pools and low/high marsh that will be created. He said that about 98% of the sediments that are dredged from the Bay are good enough quality to be used in wetland restoration. This project is basically following the guidelines adopted by the San Francisco Regional Water Quality Control Board. He discussed their work with the Corps, US. Fish and Wildlife, EPA, NMFS, and other organizations. The project received 22-0 vote at BCDC and unanimous vote at Solano Board of Supervisors.

Chairman McCarty said this could be viewed as a pilot project for creation of material necessary to repair and improve the levees through out the Delta. The Commission's Plan calls for all these levees to be brought to PL99 standards over time and it's going to take a significant quantity of material.

Mr. Levine said their company will be able to process ½ million yards initially and probably upwards of 1 million yards after that.

Commissioner Wilson asked about the character of the dredged material (clay or sand) after its clean when it comes from that far down in the basin. Mr. Levine said they will be taking 3 million yards of all types of material.

Commissioner van Loben Sels asked if they leach it out with fresh water on site. Mr. Levine responded that they pump ground water, and a byproduct of pumping the material in a slurry and letting the water drain out is a reduction in salinity in the sediment.

Commissioner Coglianese asked the capacity of the Solano site. Mr. Levine said they have a capacity at this site for between 17 million and 20 million cubic yards of sediment. The Port of Oakland project is going to generate between 3-5 million yards.

Commissioner Thomson said he's been involved in this for the past nine years as a County Supervisor and after much research, can see the benefits not only of restoring the wetlands, but also the benefits of dredging the Bay to be competitive in the world market.

Mr. Levine said if the Commissioners are interested in a tour he would be happy to arrange one. Ms. Aramburu told Mr. Levine to contact her when the project gets started; she will then set up a field trip.

11. Update on Levees in the Primary Zone of the Delta

Chairman McCarty said that staff will update the Commission on changes regarding levees and levee programs in the Delta Primary Zone since the background report on levees was prepared in 1994. The Commission will review the staff report and may direct staff to take further steps such as work with DWR, Reclamation Districts, and CALFED to develop criteria to upgrade levees in the Delta Primary Zone, work with CALFED to streamline the permitting process, or other tasks or policies that will help further this goal of stabilizing the levees in the Delta.

Ms. Aramburu said that in an effort to streamline DPC consideration, she spoke with the chair of the CALFED committee and since the levee program will come under the CALFED umbrella, he thought it may be appropriate to refer issues straight to the CALFED Committee. The staff report includes the Commission actions since the Plan was adopted, and changes in the levee program since that time. The staff report includes vegetation standards for levees, cost of levee upgrades, and the MOU which was a

product of the ROD which brings together DWR and the Corps to oversee the levee component of the CALFED program. Ms. Aramburu introduced the next speaker, Mr. Richard Marshall, who is the DWR Levee Inspection Program Manager in the Delta.

Mr. Marshall handed out some briefing papers. He discussed the history of the Sacramento Flood Control Project, the building of the levees, and fish and wildlife issues. He and his staff inspect the maintenance of 1600 miles of the project levees and also 1,200 miles of floodways. They determine if the maintenance is in accordance with the federal standards, including adequacy of maintenance, growth on the levee, unauthorized encroachments (which could be some facility or abandoned vehicles), burrowing animals, (primarily squirrels and beavers), condition of pipes and gates, erosion, and any other problems. There has been increased emphasis on proper and adequate maintenance at a growing cost to the districts. He also discussed regulatory easements and local jurisdictions. He said there are standards for the levee vegetation; vines, bushes and plants with stickers are not allowed, and fruit and nut trees are not allowed due to the attraction for burrowing mammals. The Corps standards, written in the 50's, state that there shall be no vegetation. There has been modification of views on that standard and the State Reclamation Board may and does permit variances from that standard.

Chairman McCarty introduced Dave Mraz, Department of Water Resources, who supervises the levee subvention, or levee maintenance, program.

Mr. Mraz presented a slide/video program. He said the purpose of his presentation was to update the Delta levee subvention program for FY 2001-2002. The goal is to provide long term protection for multiple Delta resources by maintaining and improving integrity of the existing Delta levee system. The subventions program is the system the Legislature decided to use to provide assistance to the local agencies to maintain, repair, and rehabilitate the levees. The program has been in place since 1973 when the State recognized the value of the Delta to all the people of the State. The Way bill provided the initial 50% supplement of the maintenance, repair and rehabilitation. For FY 2001-2002, they have 63 Reclamation District's participating for almost 700 levee miles. The program has \$4 ½ million, so a recommendation has been presented to the Reclamation Board that DWR fund about 50% of the maintenance for the year.

Ms. Aramburu said that Mr. Mraz brought booklets for the Commissioners which describe the habitat improvement component of the levee subvention program. These are the habitat improvements required under AB 360.

Chairman McCarty welcomed Rob Cooke, the CALFED Levees Program Manger.

Mr. Cooke said he's also the North Delta Program Manager for CALFED. He said that Paul Bowers, Corps, is available to answer questions. CALFED spent the last couple years putting together its levee system integrity program plan with the stakeholders and agencies. There's no real linkage at this point between the existing levee program and achieving these goals. Next steps are to look at the existing program and see what changes can be made to provide some linkage, and then set performance measures to

make sure that the goals are met in a timely fashion. He reviewed the levee program objective and goals then reviewed the current levee program administration. First of all, the objective of the levee program is to reduce the risk to land use and associated economic activities, water supply, infrastructure and ecosystem from catastrophic breaching of Delta levees. The stage one goals in the ROD; include invest; \$264 million in Delta levees and improving about 200 miles of Delta levees up to the Corps PL84-99 Standard. The current program doesn't have a lot of federal participation, except for emergency response. There is an MOU between DWR and the Corps. The current levee program is a locally directed program. The RD's determine what work they want to do in terms of raising levees, and submit requests to DWR for reimbursement. CALFED wants to put together performance measure to enable them to track performance over the seven years to ensure they are achieving the goals, i.e., dollars spent to maintain levees, acres flooded each year caused by levee failure, dollars spend on post- flood recovery and miles of levee rehabilitated. CALFED has looked at historically how successful the levee program has been. He discussed a graph that showed in the early 80's there was low investment in levee integrity and high recovery costs. In summary, the current levee program is going in the right direction. CALFED is looking at cost sharing, federal funding, and performance measures. A Levees and Habitat Advisory committee sub team serves as a levees and channel technical team.

Chairman McCarty asked if there were any questions to the three presentations of the levee program in the Delta.

Commissioner van Loben Sels asked about the expenditure of \$265 million to upgrade levees and is there any way to shorten that seven year time period; Mr. Cooke said \$264 million is the amount estimated to rehabilitate 200 miles, and getting federal funding is the key in shortening the time period.

Chairman McCarty asked if the \$264 million was calculated using current cost share formula; Mr. Cooke said that was the total cost and would require using State, federal and local funding.

Commissioner Shaver asked what the process is going to be to prioritize which of those 200 miles gets done first; Mr. Cooke said it's first come first served. The current cost share is up to 75% State and 25% local. However, the State often can't fund 75%, so the cost share is more like 45/55.

Chairman McCarty said historically, the Commission has taken a position that every mile of levee is just as important as any other mile and when it starts setting priorities it's likely that some levee will not get improved. It's the Delta experience that the Delta is only as strong as the weakest section of levee. Mr. Cooke said CALFED would like to set the cost sharing at such a level that all the very critical islands can afford the cost sharing, hopefully a 90/10 cost share. There are some islands that can't even afford 10%.

Commissioner Shaffer said that CALFED goals for the Delta include levee integrity and water quality, so the western Delta islands may be more critical from a CALFED perspective. Mr. Cooke said all Delta levees are eligible for that funding.

Commissioner Curry said from a recreation standpoint, what happens when these levees are used by people as their back yard, for example; do they go over the levee? do they ride bicycles? are they joggers? Mr. Cooke said, as inspectors observe illegal activities, i.e., horseshoe pits, benches on the levee, etc., without a permit, tickets are given and people are advised to get permits. If they don't comply, then the matter is referred to the Reclamation Board.

Commissioner Notolli asked if the permitting process is user friendly, for example if someone puts in landscaping and then they're told they need a permit; is the paperwork easy to understand and use? Mr. Cooke said the process is user friendly. The goal is to have the local agencies, i.e., the Reclamation Districts or the County, be the first point of contact on unauthorized encroachments. It is a 'no fee' permit that takes approximately six weeks.

Chairman McCarty said this is a complex topic. The Resource Management Plan has adopted some fairly significant and specific policies and recommendations relative to levees in our Primary Zone. With concurrence of the Commission, Chairman McCarty directed staff to host a workshop for the Delta Reclamation Districts and interested parties, inviting all the participants to discuss how to prioritize the improvement of 200 miles of levee in the Delta over the next seven years and put that \$264 million to good use. He asked if there were any objections; there were none. He thanked all the guests for their presentations.

12. Adjourn.

The meeting was adjourned at 10:00 p.m.